

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Hole Shot Construction and  
Environmental, Inc.  
6300 Seven Seas Avenue  
Bakersfield, California 93308-5132  
CAR000115477

Respondent.

Docket HWCA 20030398

ENFORCEMENT ORDER

Health and Safety Code  
Section 25187

INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to Hole Shot Construction and Environmental, Inc. (Respondent).

1.2. Site. Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: 6300 Seven Seas Avenue, Bakersfield, California (Site).

1.3. Permit/Interim Status. Respondent does not have a state permit, certificate, registration, or interim status to manage hazardous waste.

1.4. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of

the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.5 Exhibits. All exhibits attached to this Order are incorporated herein by this reference.

### DETERMINATION OF VIOLATION

2.1. The Department has determined that:

2.1. Respondent violated Health and Safety Code section 25163 (a) and California Code of Regulations, section 66263.17 in that, on or about October 21, 2003, the Respondent transported hazardous waste without first receiving a registration certificate from the Department.

### SCHEDULE FOR COMPLIANCE

3. Based on the foregoing Determination of Violation, IT IS HEREBY ORDERED THAT:

3.1.1. Within 30 days of the effective date of this Order, Respondent shall apply for certification as a hazardous waste transporter.

3.2. Submittals. All submittals from a Respondent pursuant to this Order shall be sent simultaneously to:

Branch Chief  
Northern California Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, California 94710-2721

3.3. Communications. All approvals and decisions of the Department made regarding such submittals and notifications will be communicated to Respondent in

writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with this Order or fails to protect public health or safety or the environment, the Department may:

- a. Modify the document as deemed necessary and approve the document as modified, or
- b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws. Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation. In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order

directly affected by a Stop Work Order under this section shall be extended by the term of the Stop Work Order.

3.7. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order

3.9. Sampling, Data and Document Availability. Respondent shall permit the Department and/or its authorized representatives to inspect and copy all sampling, testing, monitoring, and/or other data generated by Respondent, or on Respondent's behalf, in any way pertaining to work undertaken pursuant to this Order. Respondent

shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction.

3.10. Government Liabilities. The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated into this Order upon approval by the Department.

3.12. Extension Request. If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals. If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

## OTHER PROVISIONS

4.1. Additional Enforcement Actions. By issuance of this Order, the Department does not waive any right to take further enforcement actions.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Time Periods. "Days" for the purpose of this Order means calendar days.

## PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATION, the Department' sets the amount of Respondent's penalty at \$3,160. Payment is due within 30 days from the effective date of the Order. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case.

Respondent shall deliver the penalty payment to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st Floor  
P.O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Charlene Williams  
Branch Chief  
Northern California Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, California 94710-2721

RIGHT TO A HEARING

6. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent.

EFFECTIVE DATE

7. This Order is final and effective fifteen days from the date it is served on Respondent, unless Respondent requests a hearing within the fifteen-day period.

Date of Issuance: March 10, 2004

Original signed by Douglas Hohman  
Douglas Hohman  
Senior Hazardous Substance Scientist  
Department of Toxic substances Control